

# HB2674



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB2674**

by Rep. John D. Anthony

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2  
720 ILCS 5/12-3.3

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Establishes new categories of aggravated domestic battery based upon the location where the domestic battery occurred, the victim's age, physical disability, intellectual disability, the use of a deadly weapon against the victim, and other factors. Establishes penalties. Provides for enhanced penalties for domestic battery based upon prior convictions for aggravated domestic battery.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Sections 12-3.2 and 12-3.3 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

7 Sec. 12-3.2. Domestic battery.

8 (a) A person commits domestic battery if he or she  
9 knowingly without legal justification by any means:

10 (1) causes bodily harm to any family or household  
11 member;

12 (2) makes physical contact of an insulting or provoking  
13 nature with any family or household member.

14 (b) Sentence. Domestic battery is a Class A misdemeanor.  
15 Domestic battery is a Class 4 felony if the defendant has any  
16 prior conviction under this Code for violation of an order of  
17 protection (Section 12-3.4 or 12-30), or any prior conviction  
18 under the law of another jurisdiction for an offense which is  
19 substantially similar. Domestic battery is a Class 4 felony if  
20 the defendant has any prior conviction under this Code for  
21 first degree murder (Section 9-1), attempt to commit first  
22 degree murder (Section 8-4), aggravated domestic battery  
23 (Section 12-3.3), aggravated battery (Section 12-3.05 or

1 12-4), heinous battery (Section 12-4.1), aggravated battery  
2 with a firearm (Section 12-4.2), aggravated battery with a  
3 machine gun or a firearm equipped with a silencer (Section  
4 12-4.2-5), aggravated battery of a child (Section 12-4.3),  
5 aggravated battery of an unborn child (subsection (a-5) of  
6 Section 12-3.1, or Section 12-4.4), aggravated battery of a  
7 senior citizen (Section 12-4.6), stalking (Section 12-7.3),  
8 aggravated stalking (Section 12-7.4), criminal sexual assault  
9 (Section 11-1.20 or 12-13), aggravated criminal sexual assault  
10 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),  
11 aggravated kidnapping (Section 10-2), predatory criminal  
12 sexual assault of a child (Section 11-1.40 or 12-14.1),  
13 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),  
14 unlawful restraint (Section 10-3), aggravated unlawful  
15 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),  
16 or aggravated discharge of a firearm (Section 24-1.2), or any  
17 prior conviction under the law of another jurisdiction for any  
18 offense that is substantially similar to the offenses listed in  
19 this Section, when any of these offenses have been committed  
20 against a family or household member. Domestic battery is a  
21 Class 4 felony if the defendant has one or 2 prior convictions  
22 under this Code for domestic battery (Section 12-3.2) or  
23 aggravated domestic battery (Section 12-3.3), or one or 2 prior  
24 convictions under the law of another jurisdiction for any  
25 offense which is substantially similar. Domestic battery is a  
26 Class 3 felony if the defendant had 3 prior convictions under

1 this Code for domestic battery (Section 12-3.2) or aggravated  
2 domestic battery (Section 12-3.3), or 3 prior convictions under  
3 the law of another jurisdiction for any offense which is  
4 substantially similar. Domestic battery is a Class 2 felony if  
5 the defendant had 4 or more prior convictions under this Code  
6 for domestic battery (Section 12-3.2) or aggravated domestic  
7 battery (Section 12-3.3), or 4 or more prior convictions under  
8 the law of another jurisdiction for any offense which is  
9 substantially similar. In addition to any other sentencing  
10 alternatives, for any second or subsequent conviction of  
11 violating this Section, the offender shall be mandatorily  
12 sentenced to a minimum of 72 consecutive hours of imprisonment.  
13 The imprisonment shall not be subject to suspension, nor shall  
14 the person be eligible for probation in order to reduce the  
15 sentence.

16 (c) Domestic battery committed in the presence of a child.  
17 In addition to any other sentencing alternatives, a defendant  
18 who commits, in the presence of a child, a felony domestic  
19 battery (enhanced under subsection (b)), aggravated domestic  
20 battery (Section 12-3.3), aggravated battery (Section 12-3.05  
21 or 12-4), unlawful restraint (Section 10-3), or aggravated  
22 unlawful restraint (Section 10-3.1) against a family or  
23 household member shall be required to serve a mandatory minimum  
24 imprisonment of 10 days or perform 300 hours of community  
25 service, or both. The defendant shall further be liable for the  
26 cost of any counseling required for the child at the discretion

1 of the court in accordance with subsection (b) of Section 5-5-6  
2 of the Unified Code of Corrections. For purposes of this  
3 Section, "child" means a person under 18 years of age who is  
4 the defendant's or victim's child or step-child or who is a  
5 minor child residing within or visiting the household of the  
6 defendant or victim.

7 (d) Upon conviction of domestic battery, the court shall  
8 advise the defendant orally or in writing, substantially as  
9 follows: "An individual convicted of domestic battery may be  
10 subject to federal criminal penalties for possessing,  
11 transporting, shipping, or receiving any firearm or ammunition  
12 in violation of the federal Gun Control Act of 1968 (18 U.S.C.  
13 922(g) (8) and (9))." A notation shall be made in the court file  
14 that the admonition was given.

15 (Source: P.A. 97-1109, eff. 1-1-13; 98-187, eff. 1-1-14;  
16 98-994, eff. 1-1-15.)

17 (720 ILCS 5/12-3.3)

18 Sec. 12-3.3. Aggravated domestic battery.

19 (a) Offense based on injury. A person who, in committing a  
20 domestic battery, knowingly causes great bodily harm, or  
21 permanent disability or disfigurement to a person at least 13  
22 years of age who is not a severely or profoundly intellectually  
23 disabled person commits aggravated domestic battery.

24 (a-1) Offense based on injury to a child or intellectually  
25 disabled person. A person at least 18 years of age who in

1 committing a domestic battery:

2 (1) knowingly causes great bodily harm, or permanent  
3 disability or disfigurement to a person under 13 years of  
4 age, or to any severely or profoundly intellectually  
5 disabled person commits aggravated domestic battery; or

6 (2) knowingly causes bodily harm, or disability or  
7 disfigurement to a person under 13 years of age, or to any  
8 severely or profoundly intellectually disabled person  
9 commits aggravated domestic battery.

10 (a-2) Offense based on location of conduct. A person who in  
11 committing a domestic battery, other than by the discharge of a  
12 firearm, is or the person battered is on or about a public way,  
13 public property, a public place of accommodation or amusement,  
14 a sports venue, or a domestic violence shelter commits  
15 aggravated domestic battery.

16 (a-3) Offense based on status of victim. A person commits  
17 aggravated domestic battery when he or she in committing a  
18 domestic battery, other than by the discharge of a firearm,  
19 knows the individual battered to be any of the following:

20 (1) A person 60 years of age or older.

21 (2) A person who is pregnant or physically handicapped.

22 (a-4) Offense based on use of a weapon or device. A person  
23 commits aggravated domestic battery when he or she in  
24 committing a domestic battery, does any of the following:

25 (1) Uses a deadly weapon other than by discharge of a  
26 firearm, or uses an air rifle as defined in Section

1       24.8-0.1 of this Code.

2           (2) Wears a hood, robe, or mask to conceal his or her  
3       identity.

4           (3) Knowingly and without lawful justification shines  
5       or flashes a laser gunsight or other laser device attached  
6       to a firearm, or used in concert with a firearm, so that  
7       the laser beam strikes upon or against the person of  
8       another.

9           (4) Knowingly video or audio records the offense with  
10       the intent to disseminate the recording.

11       (a-5) Offense based on certain conduct. A person who, in  
12       committing a domestic battery, strangles another individual  
13       commits aggravated domestic battery. For the purposes of this  
14       subsection (a-5), "strangle" means intentionally impeding the  
15       normal breathing or circulation of the blood of an individual  
16       by applying pressure on the throat or neck of that individual  
17       or by blocking the nose or mouth of that individual.

18       (a-6) Offense based on use of a firearm. A person who, in  
19       committing a domestic battery:

20           (1) knowingly discharges a firearm, other than a  
21       machine gun or a firearm equipped with a silencer, and  
22       causes any injury to a family or household member commits  
23       aggravated domestic battery; or

24           (2) knowingly discharges a machine gun or a firearm  
25       equipped with a silencer, and causes any injury to a family  
26       or household member commits aggravated domestic battery.

1 (b) Sentence.

2 (1) Aggravated domestic battery under subdivision  
3 (a-1) (2) or subsection (a-2), (a-3), or (a-4) is a Class 3  
4 felony.

5 (2) Aggravated domestic battery under subsection (a)  
6 or (a-5) is a Class 2 felony.

7 (3) Aggravated domestic battery as defined in  
8 subdivision (a-1) (1) is a Class X felony, except that:

9 (A) if the person committed the offense while armed  
10 with a firearm, 15 years shall be added to the term of  
11 imprisonment imposed by the court;

12 (B) if, during the commission of the offense, the  
13 person personally discharged a firearm, 20 years shall  
14 be added to the term of imprisonment imposed by the  
15 court;

16 (C) if, during the commission of the offense, the  
17 person personally discharged a firearm that  
18 proximately caused great bodily harm, permanent  
19 disability, permanent disfigurement, or death to  
20 another person, 25 years or up to a term of natural  
21 life shall be added to the term of imprisonment imposed  
22 by the court.

23 (4) Aggravated domestic battery under subdivision  
24 (a-6) (1) is a Class X felony.

25 (5) Aggravated domestic battery under subdivision  
26 (a-6) (2) is a Class X felony for which a person shall be

1 sentenced to a term of imprisonment of a minimum of 12  
2 years and a maximum of 45 years.

3 (6) Any order of probation or conditional discharge  
4 entered following a conviction for an offense under  
5 subsection (a), (a-1), or (a-5) of this Section must  
6 include, in addition to any other condition of probation or  
7 conditional discharge, a condition that the offender serve  
8 a mandatory term of imprisonment of not less than 60  
9 consecutive days. A person convicted of a second or  
10 subsequent violation of subsection (a), (a-1), or (a-5) of  
11 this Section must be sentenced to a mandatory term of  
12 imprisonment of not less than 3 years and not more than 7  
13 years or an extended term of imprisonment of not less than  
14 7 years and not more than 14 years.

15 (c) Upon conviction of aggravated domestic battery, the  
16 court shall advise the defendant orally or in writing,  
17 substantially as follows: "An individual convicted of  
18 aggravated domestic battery may be subject to federal criminal  
19 penalties for possessing, transporting, shipping, or receiving  
20 any firearm or ammunition in violation of the federal Gun  
21 Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation  
22 shall be made in the court file that the admonition was given.

23 (d) For the purposes of this Section:

24 "Building or other structure used to provide shelter"  
25 has the meaning ascribed to "shelter" in Section 1 of the  
26 Domestic Violence Shelters Act.

1           "Domestic violence" has the meaning ascribed to it in  
2           Section 103 of the Illinois Domestic Violence Act of 1986.

3           "Domestic violence shelter" means any building or  
4           other structure used to provide shelter or other services  
5           to victims or to the dependent children of victims of  
6           domestic violence under the Illinois Domestic Violence Act  
7           of 1986 or the Domestic Violence Shelters Act, or any place  
8           within 500 feet of such a building or other structure in  
9           the case of a person who is going to or from the building  
10           or other structure.

11           "Firearm" does not include an air rifle as defined by  
12           Section 24.8-0.1 of this Code.

13           "Machine gun" has the meaning ascribed to it in Section  
14           24-1 of this Code.

15           (Source: P.A. 96-287, eff. 8-11-09; 96-363, eff. 8-13-09;  
16           96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11.)